LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

Notification No. LAW 74 LCA 76.

Bangalore, dated 31st August 1976.

Ordered that the Pharmacy (Amendment) Act, 1976 (Central Act No. 70 of 1976) published in Part II, Section 1 of the Gazette of India, Extraordinary dated 27th May 1976 be republished in the *Karnataka Gazette* for general information.

By Order and in the name of the Governor of Karnataka,

M. BALAJI RAO,
Under Secy. to Govt., I/C.,
54 *Dept. of Law and Parly. Affairs.*

Assented to on 27th May 1976 Act No. 70 of 1976

THE PHARMACY (AMENDMENT) ACT, 1976

AN

ACT

further to amend the Pharmacy Act, 1948

BE it enacted by Parliament in the Twenty-seventh Year of the Republic of India as follows :—

1. (*1*) **Short title and commencement** :—This Act may be called the Pharmacy (Amendment) Act, 1976.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. **Amendment of section 2.**—In section 2 of the Pharmacy Act, 1948 (8 of 1948) hereinafter referred to as the principal Act),-

(*a*) for clause (*c*), (*d*) and (*e*), the following clauses shall be substituted, namely :—

(*c*) "Central Council" means the Pharmacy Council of India constituted under section 3 ;

(*d*) "Central Register" means the register of phramacists maintained by the Central Council under section 15A ;

(*da*) "Executive Committee" means the Executive Committee of the Central Council or of the State Council, as the context may require ;

(*e*) "Indian University" means a University within the meaning of section 3 of the University Grants Commission Act, 1956 (3 of 1956) and includes such other institutions, being institutions established by or under a Central Act, as the Central Government may, by notification in the Official Gazette, specify in this behalf' ;

(*b*) for clauses (*h*), (*i*) and (*j*), the following clauses shall be substituted, namely :—

"(*h*) "register" means a register of pharmacists prepared and maintained under Chapter IV ;

(*i*) "registered pharmacist" means a person whose name is for the time being entered in the register of the State in which he is for the time being residing or carrying on his profession or business of pharmacy;

(*j*) "State Council" means a State Council of Pharmacy constituted under section 19, and includes a Joint State Council of Pharmacy constituted in accordance with an agreement under section 20;

(*k*) "University Grants Commission" means the University Grants Commission established under section 4 of the University Grants Commission Act, 1956 (3 of 1956)'

3. **Amendment of section 3.**—In section 3 of the principal Act,–

(*a*) in clause (*a*), for the words "authority known as the Inter-University Board", the words "University Grants Commission" shall be substituted ;

(*b*) in clause (*b*), for the word "three", the word "four" shall be substituted ;

(*c*) for clause (*f*), the following clause shall be substituted, namely :—

"(*f*) a representative of the University Grants Commission and a representative of the All India Council for Technical Education ;"

(*d*) in clause (*g*), after the word "elected", the words "from amongst themselves" shall be inserted ;

(*e*) in clause (*h*),—

(*i*) the words "either a registered medical practitioner or" shall be omitted ;

(*ii*) for the proviso, the following proviso shall be substituted, namely :—

"Provided that for five years from the date on which the Pharmacy (Amendment) Act, 1976, comes into force the Government of each Union Territory shall, instead of electing a member under clause (*g*), nominate one member, being a person eligible for registration under section 31, to represent that territory." ;

(*iii*) the *Explanation* appearing at the end shall be omitted.

4. **Amendment of section 5.**—In section 5 of the principal Act,–

(*a*) In sub-section (*2*), for the words "An elected President", the words "The President" shall be substituted ;

(b) to sub-section (2), the following proviso shall be added namely :—

"Provided that if his term of office as a member of the Centra Council expires before the expiry of the full term for which he i elected as President or Vice-President, he shall, if he is re-elected o re-nominated as a member of the Central Council, continue to hol office as President or Vice-President for the full term for which he i elected to such office.".

5. **Amendment of section 7.**—In section 7 of the principal Act in sub-section (1), the words "other than a nominated President," shall be omitted.

6. **Substitution of new section for section 8.**—For section 8 o the principal Act, the following section shall be substituted, namely

"8. **Staff remuneration and allowances.**—The Central Counei shall—

(a) appoint a Registrar who shall act as the Secretary to tha Council and who may also, if deemed expedient by that Council, ac as the Treasurer thereof;

(b) appoint such other officers and servants as that Counei deems necessary to enable it to carry out its functions under thi Act;

(c) require and take from the Registrar, or any other office or servant, such security for the due performance of his duties a that Council may consider necessary; and

(d) with the previous sanction of the Central Government, fix—

(i) the remuneration and allowances to be paid to the President, Vice-President, and other members of that Council,

(ii) the pay and allowances and other conditions of service of officers and servants of that Council."

7. **Insertion of new section 9A.**—After section 9 of the principa Act, the following section shall be inserted, namel :—

"9A. **Other committees.**—(1) The Central Council may constitute from among its members other committees for such genera or special purposes as that Council may deem necessary and for such periods not exceeding five years as it may specify, and may co-op for a like period persons, who are not members of the Central Counei as members of such committees.

(2) The remuneration and allowances to be paid to the members of such committees shall be fixed by the Central Counci with the previous sanction of the Central Government.

(3) The business before such committees shall be conducted in accordance with such regulations as may be made under this Act.".

8. **Amendment of section 14.**—In section 14 of the principal Act, after the words "shall be deemed", the words, "subject to such additional conditions, if any, as may be specified by the Central Council," shall be inserted.

9. **Insertion of new sections 15A and 15B.**—After section 15 of the principal Act, the following sections shall be inserted namely :—

"**15A. The Central Register.**—(1) The Central Council shall cause to be maintained in the prescribed manner a register of pharmacists to be known as the Central Register, which shall contain the names of all persons for the time being entered in the register for a State.

(2) Each State Council shall supply to the Central Council five copies of the register for the State as soon as may be after the first day of April of each year, and the Registrar of each State Council, shall inform the Central Council, without delay, all additions to, and other amendments in, the register for the State made from time to time.

(3) It shall be the duty of the Registrar of the Central Council to keep the Central Register in accordance with the orders made by the Central Council, and from time to time to revise the Central Register and publish it in the Gazette of India.

(4) The Central Register shall be deemed to be public document within the meaning of the Indian Evidence Act, 1872(1 of 1872) and may be proved by the production of a copy of the Register as published in the Gazette of India.

15B Registration in the Central Register.—The Registrar of the Central Council shall, on receipt of the report of registration of a person in the register for a State, enter his name in the Central Register".

10. **Amendment of section 17.**—In section 17 of the principal Act,—

(a) in sub-section (1), the words "together with an abstract of its accounts" shall be omitted ;

(b) in sub-section (2), for the words "copy or abstract", the words "or copy" shall be substituted.

11. **Insertion of new section 17A.**—After section 17 of the principal Act, the following section shall be inserted, namely :—

"**17A. Accounts and audit.**—(1) The Central Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in accordance with such general directions as may be issued and in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Central Council shall be audited annually by the Comptroller and Auditor-General of India or any person authorised by him in this behalf and any expenditure incurred by him or any person so authorised in connection with such audit shall be payable by the Central Council to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person authorised by him in connection with the audit of the accounts of the Central Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor General of India has in connection with the audit of Government accounts, andit particular, shall have the right to demand the production of books of accounts, connected vouchers and other documents and papers.

(4) The accounts of the Central Council as certified by the Comptroller and Auditor-General of India or any person authorised by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Council which shall forward the same with its comments to the Central Government."

12. **Amendment of section 18.**—In section 18 of the principal Act, in sub-section (2),—

(a) for clause (a), the following clause shall be substituted, namely :—

"(a) the management of the property of the Central Council;";

(b) in clause (f),—

(i) for the word "Secretary", the words "Registrar, Secretary" shall be substituted ;

(ii) for the word "Treasurer", the words "Registrar or any other officer or servant" shall be substituted ;

(c) after clause (f), the following clauses shall be inserted namely :—

"(g) the manner in which the Central Register shall be maintained and given publicity ;

(h) constitution and functions of the committees other than Executive Committee, the summoning and holding of meetings thereof, the time and place at which such meetings shall be held, and the number of members necessary to constitute the quorum".

13. **Amendment of section 19.**—In section 19 of the principal Act.—

(a) in clause (b),—

(i) for the word "two", the "word three" shall be substituted ;

(ii) for the words "members of the pharmaceutical profession", the words "registered pharmasists" shall be substituted ;

(b) in clauses (dd) and (e), for the words and figures "Drugs Act, 23 of 1940, the words and figures "Drugs and Cosmetics Act, 1940" 23 of 1940 shall be substituted ;

(c) in the proviso, for the words "member of pharmaceutical profession". the words "registered pharmacist" shall be substituted.

14. **Amendment of section 21**.—In section 21 of the principal Act,—

(a) in sub-section (1), in clauses (dd) and (e), for the words and figures "Drugs Act, 1940", 23 of 1940 the words and figures "Drugs and Cosmetis Act, 1940". 23 of 1940. shall be substituted ;

(b) in sub-section (3),—

(i) for the words "at least half". the words "more than half" shall be substituted ;

(ii) for the words "members of the pharmaceutical profession". the words "registered pharmacists" shall be substituted.

15 **Amendmenf of section 23**..—In section 23 of the Principal Act,—

(*a*) in sub-section (2), for the words "An elected President", the words "The President" shall be substituted ;

(*b*) to sub-section (2), the following proviso shall be added, namely :—

"Provided that if his term of office as a member of the State Council expires before the expiry of the full term for which he is elected as President or Vice-President, he shall, if he is re-elected or re-nominated as a member of the State Council, continue to hold office for the full term for which he is elected as President or Vice-President."

16 **Insertion of new section 26A**.— After section 26 of the Principal Act, following section shall be inserted, namely :—

Inspection.—"26A (1) A State Council may, with the previous sanction of the State Government, appoint Inspectors having the prescribed qualifications for the purposes of Chapters III, IV and V of this Act.

(2) An Inspector may—

(a) inspect any premises where drugs are compounded or dispensed and submit a written report to the Registrar ;

(b) enquire whether a person who is engaged in compounding or dispensing of drugs is a registered pharmacist ;

(c) investigate any complaint made in writing in respect of any contravention of this Act and report to the Registrar ;

(d) institute prosecution under the order of the Executive Committee of the State Council ;

(e) exercise such other powers as may be necessary for carrying out the purposes of Chapters III, IV and V of this Act or any rules made thereunder.

(3) Any person wilfully obstructing an Inspector in the exercise of the powers conferred on him by or under this Act or any rules made thereunder shall be punishable with imprisonment for a term which may extended to six months, or with fine not exceeding one thousand rupees, or with both.

(4) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code." (45 of 1860.)

17. Insertion of new section 32B.—After section 32A of the principal Act, the following section shall be inserted, namely :—

"**32B. Special provisions for registration of displaced persons, repatriates and other persons.**—(*1*) Notwithstanding anything contained in section 32 or section 32A, a State Council may permit to be entered on the register—

(*a*) the names of persons who possess the qualifications specified in clause (*a*) or clause (*c*) of section 31 and who were eligible for registration between the closing of the First Register and the date when the Education Regulations came into effect.

(*b*) the names of persons approved as "qualified persons" before the 31st December, 1969 for compounding or dispensing of medicines under the Drugs and Cosmetics Act, 1940 (23 of 1940) and the rules made thereunder ;

(*c*) the names of displaced persons or repatriates who were carrying on business or profession of pharmacy as their principal means of livelihood in any country outside India for a total period of not less than five years from a date prior to the date of application for registration.

Explanation —In this sub-section.,—

(*i*) "displaced person" means any person who, on account of civil disturbances or the fear of such disturbances in any area now forming part of Bangla Desh, has, after the 14th day of April, 1947 but before the 25th day of March, 1971, left, or has been displaced from, his place of residence in such area and who has since then residing in India ;

(*ii*) "repatriate" means any person of Indian origin who, on account of civil disturbances or the fear of such disturbances in any area now forming part of Burma, Sri Lanka or Uganda, or any other country has, after the 14th day of April, 1957, left or has been displaced from, his place of residence in such area and who has since then been residing in India.

(2) The provisions of clauses (a) and (b) of sub-section (1 shall remain in operation for a period of two years from th commencement of the Pharmacy (Amendment) Act, 1976.'

18. **Amendment of section 36**.—In section 36 of the principa Act, in sub-section (1), in clause (e) of the proviso, for the word and figures "Drugs Act, 1940", (23 of 1940) the words and figure "Drugs and Cosmetics Act, 1940" (23 of 1940) shall be substituted.

19. **Amendment of section 42**.—In section 42 of the principa Act, in sub-section (1), after the existing proviso, the followin proviso shall be added, namely :—

"Provided further that where no such date is appointed by the Government of a State, this sub-section shall take effect in that State on the expiry of five years from the commencement of the Pharmacy (Amendment) Act, 1976."

20. **Amendment of section 46**.—In Section 46 of the principa Act, in sub-section (2), after clause (f), the following clause shall b inserted, namely:—

"(ff) the qualifications, powers and duties of an Inspector ;"

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